



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 16.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.9326 of 2019

and

W.M.P. (MD) .No.7334 of 2019

G.Fathima Beebi

... Petitioner

Vs

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Theppakulam Street,
Neelagireeswarar Thoppu, Thiruvanaikaval,
Trichy District-625 005.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Theppakulam Street,
Neelagireeswarar Thoppu, Thiruvanaikaval,
Trichy District-625 005.
- 3.The Fit Person,
Arulmigu Thiroubathiamman Temple,
Poonthottam, Puthur, Trichy Taluk,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order, passed by the first respondent in M.P.No.98 of 2016, dated 26.02.2019 and quash the same as illegal.

For Petitioner : Mr.R.R.Kannan
For R-1 & R-2 : Mr.M.Karuppasamy
Government Advocate

ORDER

Heard the learned counsel on either side. By consent of both parties this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is occupying the land belonging to the third respondent Temple. The petitioner was paying the ground rent. The petitioner had rebuilt her house and put up a new superstructure in the place of the old one, without getting permission from the third respondent Temple. Therefore, the third respondent filed a petition under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for evicting the petitioner herein. The first respondent passed the eviction order dated 26.02.2019. The second respondent has also issued a consequential proceedings. They are



under challenge in this Writ Petition.

3. I am of the view that the petitioner has an effective alternative remedy to file an Appeal before the Commissioner, Hindu Religious and Charitable Endowments Department. Therefore, I am not inclined to entertain this Writ Petition.

4. It is further submitted by the learned counsel appearing for the petitioner that the petitioner is a spinster and that she is taking care of her ailing brother also. It is further pointed out that the petitioner's family has been in occupation of the premises in question for more than five decades. Therefore, the petitioner wanted this Court to show some indulgence and sympathy.

5. Taking note of the special facts and circumstances obtaining in this case, the petitioner is permitted to file an Appeal before the Commissioner, Hindu Religious and Charitable Endowments Department, within a period of four weeks from today (16.04.2019). If the said appeal is filed within a period of four weeks, the Commissioner shall entertain the same without reference to any limitation. Till the disposal of the Appeal filed by the Commissioner, Hindu Religious and Charitable Endowments Department, the order impugned in this Writ Petition will not be given effect to.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Theppakulam Street,
Neelagireeswarar Thoppu, Thiruvanaikaval,
Trichy District-625 005.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Theppakulam Street,
Neelagireeswarar Thoppu, Thiruvanaikaval,
Trichy District-625 005.

+2cc to Mr.R.R.KANNAN, Advocate, SR.No.61194

+1cc to M/s. Special Government Pleader, SR.No. 61560

<https://hcservices.ecourts.gov.in/hcservices/>

W.P. (MD) No.9326 of 2019

KK/SAR/24.04.2019/ 2P- 6C